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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/078,853	05/14/1998	YASUSHI TAKAHASHI	450100-4486	7718

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
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2611

11

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

7

Office Action Summary

Application No.

09/078,853

Applicant(s)

TAKAHASHI ET AL.

Examiner

Reuben M. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 6/16/20003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1,3-7 and 9-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1, 3-7 & 9-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/16/2003 has been entered. A response on the merits follows.

Response to Arguments

2. Applicant's arguments filed 6/16/2003 have been fully considered but they are not persuasive. Applicant argues on pages 6-7, that although Herz teaches adjusting the customer profile based on the types and characteristics of the program viewed, the reference does not disclose adjustments based time. Examiner respectfully disagrees, and points out that Herz includes a section titled; E. Customer Moods & Time Windows, on col. 17 – col. 19. Herz discusses the relevance of time/mood of day, as factor in determining the programming, and specifically mentions that the mood at the lowest (most specific) level of hierarchy is generally used to develop the program list for the customer, col. 17, lines 55-65.

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Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 10 is rejecting under 35 U.S.C. 112, 2nd paragraph as lacking antecedent basis.

Claim 10 recites the limitation "the identification key" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 3-7 & 9-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Herz, (U.S. Pat # 5,758,257).

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Considering claim 1, the amended claimed information retrieval method comprising the steps of forming a general user model based upon statistical data obtained by audience research on the actions of a plurality of users, reads on the use of demographic data discussed in Herz when generating an initial customer profile, see col. 11, lines 61-67; col. 38, lines 18-25. The further claimed initial user model forming a user specific model based upon the general user model and a user profile, is met by Herz, col. 4, lines 32-55, which teaches that the initial customer profile may include demographic data, as well as a profile based upon user feedback data. Furthermore, Herz discusses adjusting the customer profile, (col. 13, lines 55-67; col. 14, lines 48-55 & col. 22, lines 56-67).

The additionally claimed feature of forming a study user model based upon the initial user model and information selection history of the specific user is consistent with the teachings of Herz, see col. 29, lines 45-65; col. 30, lines 1-10 & col. 33, lines 12-21. Herz is directed to updating a customer's profile based upon the programs that are actually watched, col. 6, lines 35-60. The teachings of Herz, with respect to the agreement matrix, which utilizes an adjusted customer profile to generate and present a list of programs that the customer might likely desire, reads on the further claimed feature of retrieving information suiting the specific user based upon the study user model, see col. 19, lines 5-14; col. 40, lines 32-65.

As for the additionally amended claimed feature of the statistical data including viewing time for the users, Herz teaches that the window for viewing programming is expressed in the calculations as a pair of time variables 'l' and 'u', which represent starting point and ending point

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of a window, respectively. It is further disclosed that Customer Profiles used in accordance with the preferred embodiment of Herz, incorporates this concept of time and moods in video scheduling; see col. 17, lines 35-50.

The further claimed feature of calculating genre taste based on time data of a request for EPG also reads on the above disclosure of Herz, of including the time of day for watching programming within the customer profile.

Considering claims 3-6 & 9-14, the claimed features including general user selection taste data, which reads on cluster profiles, and being converted to disperse data reads on generating individual user profiles in the disclosure of Herz, which teaches that the general profile is developed from a combination of demographic and user selection data from a range of customers, (col. 9, lines 61-65; col. 11, lines 45-67; col. 22, lines 56-65; col. 24, lines 45-55).

The dispersed data being interpolated to calculate the continuous data reads on the Herz collecting dispersed individual profiles and generating the group profiles, col. 24, lines 45-55; col. 30, lines 1-48, which involves interpolation.

Moreover, in Herz the various individual customer and cluster profiles are inherently stored in the system.

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Considering claim 7, the claimed information retrieval apparatus comprises elements, which correspond with subject matter, mentioned above in the rejection of claim 1, and are likewise rejected. Also see Herz, col. 24, lines 45-55; col. 30, lines 1-65.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Saitoh, Seidman Teaches using daily and weekly TV viewing history of a subscriber in creating a profile.

B) Bedard Teaches using at least a time duration fraction in developing a favorite program/channel listing.

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Any response to this action should be mailed to:

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or faxed to:

(703) 872-9314, (for formal communications intended for entry)

Or:

(703) 872-9314 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")


*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).*

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Reuben M. Brown whose telephone number is (703) 305-2399.
The examiner can normally be reached on M-F (8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Andrew I. Faile can be reached on (703) 305-4380. The fax phone numbers for the
organization where this application or proceeding is assigned is (703) 872-9314 for regular
communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the receptionist whose telephone number is (703) 305-4700.

Reuben M. Brown


ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600